

## THORN TOWNSHIP ZONING COMMISSION

<b>Zoning Members Present:</b>	Wayne Gniewkowski	<b>Guests Present:</b>	Lawrence Walters
	Ronald Bonnette		David Lyle
	Brad Blain		Walt Vernon
	Mark Huggins		Sharon Vernon
	Joe Blaine		Teresa Bateson
	Ed Corns, Zoning Inspector		Betty Eberts
	Deborah Morgan, Zoning Secretary		Rich Eberts
	Pete Griggs, Thorn Twp. Zoning Attorney		Karen McClellan
			Todd Brune
<b>Meeting:</b>	Date: 09/09/2019		Dan Rozzo
	Time: 6:00 p.m.		Don Waller
	Location: Thorn Township Building		Lora Waller
			Jeff Zemolong

### PUBLIC HEARING FOR PROPOSED FENCE REGULATIONS FOR THE ZONING RESOLUTION

Zoning Chairman Joe Blaine called the Public Hearing of the Thorn Township Zoning Board to order at 6:00 p.m. by saying the Pledge of Allegiance to the American Flag. Roll Call was taken and all members were present except Wayne Gniewkowski.

Chairman Blaine stated that the public hearing for the fence regulations was to get input from the residents of Thorn Township. Resident Don Waller stated that he had a few questions. Mr. Waller wanted to know why the fence regulations were even being considered, when the regulations currently on the books wasn't even being able to be kept up with. Mr. Waller wanted to hear each member reason. Chairman Blaine stated that there was a situation almost a year ago where a fence was placed on Township property. This prompted several of the residents to come to the zoning board requesting responsible fence regulations. Chairman Blaine stated that the fence regulations were then taken on and this was what the board was responsible for as appointed zoning board members. Chairman Blaine stated that this proposed language does not say you can not have a fence, this is for safety. Chairman Blaine stated that the current zoning board is split on this subject; this public hearing is scheduled to hear public input. This subject is not final after tonight, any decisions from the zoning board would either be voted to move on or not to the Trustees. Chairman Blaine further explained the process of resolution changes, such as this proposed language, and how it moves from the zoning board and then to the Trustees.

Resident Jeff Zemolong wanted to know if anyone took in consideration the fact that fencing was part of zoning prior and it was taken out. Chairman Blaine stated that he has heard that but has not seen any of that prior language. Don Waller stated that he had attended a previous zoning meeting and heard a particular board member voice his conflict and Mr. Waller wanted to know why this board member is allowed to vote when he has direct conflict. Board member Mark Huggins stated that he believes that was him and that board member Ron Bonnette brought that to the attention of the zoning board and it was decided it was not a conflict. Zoning attorney Pete Griggs stated that it is not a legal conflict. Attorney Griggs stated that he does zoning all over the state and it is very uncommon not to have some sort of fence regulation as part of zoning. Attorney Griggs went on to state that this fence proposal is about as bare bones as you can get as far as others he has seen; this is very typical to have a fence regulation in a zoning resolution and this particular proposed fence regulation is minimal. Mr. Waller wanted to know if these fence regulations was for a safety reason. Chairman Blaine stated that is why he pursued it, specifically line of site/safety reasons. Chairman Blaine explained that those were his reasons, other members had other reasons why they felt the need for fence regulations. Chairman Blaine stated that the proposed document was developed keeping the whole township in mind.

Zoning member Mark Huggins questioned resident Don Waller as to if he was part of the rules then why did he do away with the fence regulations. Mr. Waller stated that he was not part of the rules, and he clarified that he has never set on the board. Jeff Zemolong stated that fence regulations were put in when zoning was created. Mr. Zemolong stated that he has brought the previous zoning rules to the Township, he stated that they keep disappearing and that no one wants them around. Mr. Zemolong stated that there is a copy and he got them from Sandy Davis. Continued discussion was held on the issue of previous fence regulations being in place and when they were removed. Mr. Zemolong stated that

the zoning inspector is already busy and adding more would be more for him to keep up with. Mr. Zemolong stated that he understands the safety factor but he just doesn't see the need for fencing regulations. Resident Don Waller wanted to know if these proposed fence regulations are passed, what would he have to go through and what would it cost to have a fence. Chairman Blaine stated that the zoning board does not set fees, the Township Trustees do. Chairman Blaine stated that if he had his way it would be free, fill out a form and follow the rules and it would be free, is his opinion. Attorney Griggs stated that it would be a permit, as long as you met the guidelines a permit is all that is needed. Mr. Waller wanted to know if there could be any changes made to these proposed fence regulations if it passes, can this board make changes. Attorney Griggs stated that if this is moved on to the Trustees and the Trustees pass it and it becomes part of the resolution, changes could be made, however it would need to follow the same procedures as this proposal has followed. Mr. Waller stated that he thinks this is ridiculous and it is just adding more regulations to a system that can't be managed now.

Resident Todd Brune stated that he was a previous Thorn Township Zoning Inspector and during that time he had numerous requests that something be done about fences. They wanted to know what they could do or that they were unhappy about what someone else had done in regards to fences. There were several occasions where individuals had put up fences that were not on their property and Mr. Brune had several concerns from Township residents. Mr. Brune stated that the proposed fence regulations are a good idea. Mr. Brune stated that he believes if he wants to put up a fence and he gets a permit that says he can, if later on down the road it is found out that his fence is on the wrong place, he has a piece of paper that says he did what he was supposed to do when he originally put up the fence.

Resident Dan Rozzo wanted to know if there would be grandfathering in and wanted some clarification on open fencing. Chairman Blaine stated that you can have a fence and an open fence you can see through with a 50% view, such as a picket fence. Chairman Blaine explained further line of site and safety. Mr. Rozzo stated that if there were some fence regulations in place before than they should be reviewed first before any of tonight's proposed fencing would be considered. The zoning secretary stated that as long as she has been the zoning secretary which dates to approximately 2005, there was not any fence regulations in the resolution at that time. The zoning secretary also stated that any questions on records retention is not a zoning board issue, that is maintained by the Trustees and the fiscal officer. Resident Jeff Zemolong stated that he has a copy of those previous regulations that has fencing in them and he will bring a copy down and make sure that it is given to the Zoning Inspector.

Resident Dan Rozzo had questions on shrubs, ornamental grasses, and landscaping. Clarification was made on this issue. Resident Teresa Bateson wanted to know if everything that is currently there is grandfathered and if anything is currently blocking a view, then how is that any different if she puts up a fence now. Chairman Blaine said that all they can do is correct things going forward. Attorney Griggs clarified that legally that is all they are required to do is correct it going forward. Ms. Bateson stated that she still doesn't see how that is any different then if she puts up a fence that blocks a view, which may be the same as a neighbor that may be already blocking a view, but he gets to keep it because he has been there before she was. Attorney Griggs stated that he doesn't have a great reason for this but it is how the law works in this situation. Discussion was held on any proposed fees for permits and grandfathering of current fences in regards to the proposed fence regulation. The issue of a fence being destroyed or replaced either a section at a time or its entirety was discussed.

Resident Jeff Zemolong questioned if all zoning members were present. It was clarified that member Wayne Gniewkowski was absent. Mr. Zemolong wanted a show of hands of how many people was for the fence regulations versus how many was against it. Discussion was held on fences being placed on public right of ways. Mr. Zemolong clarified that he would bring a copy of the Townships original zoning resolution so that the Township can have a copy.

Resident Walt Vernon wanted to know if putting fencing along the lake was in the original fence regulations that has been discussed. Mr. Zemolong stated that he does not know if it was. Deed restrictions were also discussed.

Zoning member Mark Huggins stated that he has a neighborhood that does not have fences but when there are no rules than anyone can come along and do whatever they please and that is what happened when someone put up a privacy fence that blocked all the neighbors view of the lake. Mr. Zemolong stated that the Trustees are the ones who allowed that fence to be built and they were the ones who made the mistakes, not the residents or the board members. Zoning member Huggins stated that by establishing some rules on fencing they are giving the Trustees some guidelines, something in black and white, versus having no rules. Continued discussion was held.

The question of the possibility of tabling this issue until the original zoning resolution that was supposed to have fence regulations in them be found and reviewed. Attorney Griggs clarified that what ever happens tonight the results will need forwarded over to the Trustees, who have the ultimate decision. Attorney Griggs also stated that the Trustees can modify what the board passes on to them but they can not send it back to the zoning board. Resident Todd Brune stated that what happens if the "old" rules are brought in and they are three pages and there are all kinds of restrictions, are the people going to say this is what they want or are they going to want what is being proposed tonight.

Resident Teresa Bateson wanted to know what needs to be done to let the Trustees know they don't want the fence regulations. Zoning member Ron Bonnette stated that he requested everyone be mailed notice of tonight's public hearing and he is going to ask the Trustees to do that. Attorney Griggs explained the legal notification process which does not require every resident be mailed notification. Continued discussion was held on the advertisement of this public hearing to the residents of the Township. It was explained that the notice of this meeting was posted in the Perry County Tribune, on the Township's website, and on social media.

Resident Karen McClellan stated that she is pleased, to a degree, with the proposed fence regulation draft; that it puts the Township more in line with other Townships that are on Buckeye Lake. Ms. McClellan stated that safety matters and being able to see beyond one's property, being a road way, or a lake channel does matter. Ms. McClellan also stated that in a lake front area the view does matter, she would like the conversation to continue so that it does not impact the entire township and that in the current zoning resolution there are different zoning areas and that is a perfect vehicle to allow some of the changes that people are asking for. Ms. McClellan stated that it is a good first step and applauds the work that has been done. Resident Todd Brune stated that he agrees with Ms. McClellan and that there should be some clarification between rural areas versus the lake front areas. Agricultural exemptions were discussed.

Resident Don Waller stated that he strongly disagrees with Ms. McClellan and Mr. Brune's statements, he does not think we need any further regulations. Mr. Waller stated that he feels there are regulations on the books that are not being upheld so why would the board introduce more regulations. Mr. Waller stated that he does not want someone telling him what kind of plant or fence that he can put up, he feels it's a waste of time and money.

Resident Betty Eberts stated that she can understand a lot of what has been said tonight but when you buy a lakefront property you buy the view and when that view is blocked by an eight foot fence that goes completely to the lake, the view for all of those residents has been lost. Ms. Eberts stated that if you talk to a realtor, they will tell you that your property value will go down, she is not saying you can't have a fence for safety reasons but there needs to be restrictions. Resident Don Waller stated that now he will have to pay more to increase the value to his property. Resident Betty Eberts stated that she still has to pay property taxes for a view that she no longer has.

Chairman Blaine stated that there has been a lot of good input and the previous fence regulations should be reviewed. Resident Todd Brune stated that since zoning has come into being the area, not only around the lake, but all the adjoining areas has been cleaned up, everyone's property values have increased, and re-sale values have increased. Mr. Brune stated that it all started, in his opinion, when the Township got zoning. Mr. Brune stated that he is sure that Don Waller wouldn't want someone dropping a couple mobile homes on either side and building a fence out of pallets right to the waters edge. What do you think is going to happen when he would go to sell if he has pallet fences on either side of him, he's not going to be happy with that. Mr. Brune stated that zoning, in general, has done a great job bringing us into the 21<sup>st</sup> century.

Zoning member Bonnette questioned the attorney about how a view of the lake would have anything to do with health, safety, or general welfare. Chairman Blaine stated that they didn't attack this by view of the lake. Attorney Griggs stated that health and safety is not the same thing as general welfare; general welfare does include esthetics. Continued discussion was held.

Chairman Blaine thanked the public for its attendance and input and the public hearing was closed at 7:04 p.m.

## Thorn Township Zoning Board Regular Meeting

The Thorn Township Zoning Commission Regular Meeting was called to order by Chairperson Joe Blaine at 7:07 p.m. Roll call was taken and all members were present except for Wayne Gniewkowski (Wayne Gniewkowski arrived latter at 7:09 p.m.)

The August 2019 regular Zoning Commission Meeting Minutes were distributed. Brad Blain made a motion to approve the minutes as presented, Wayne Gniewkowski seconded the motion. Roll call was taken and the motion passed by a vote of four (4) in favor (Gniewkowski, Blain, Huggins, Blaine) and one (1) against (Bonnette). Mr. Gniewkowski questioned Mr. Bonnette if he felt the minutes were not accurate. Mr. Bonnette stated that it was an error of omission, he is tired of being spun in the wrong way, he doesn't want to talk about it. Mr. Gniewkowski stated that if they are inaccurate then let's talk about it. Mr. Bonnette stated that he felt they did not cover Mr. Huggins statement adequately and its spinning his in a bad light and there is omissions and he's not going to agree with it. Mr. Gniewkowski stated that if there are inaccuracies then let's talk about it. Chairman Blaine said they were voted on and accepted and we are moving on from that.

### Proposed Fence Regulations

Chairman Blaine wanted to know if there was any discussion on what was heard in the public hearing. Mr. Gniewkowski apologized for not being able to be at the public hearing but he had a previous work-related issue. Mr. Blain stated that the majority of people who chose to attend were against the proposed fence regulations. Chairman Blaine stated that this is a very small portion of the community. Zoning Inspector Corns stated that it was said in the public hearing that those who did not show up didn't care. Mr. Bonnette stated that he disagreed with that, he did not feel the word got out about the public hearing. Mr. Bonnette stated that it was mentioned before by the Zoning Inspector that money would be spent for anyone who fights zoning in court but they wouldn't spend money to notify the residents about the public hearing. Zoning Inspector Corns disagreed with his statement and stated that he did not say that. Mr. Bonnette stated that he didn't even see a notice on the wall here about there being a public hearing. Zoning Inspector Corns stated that he does not control the money, this board does not control the money, the Trustees control the money. Continued discussion was held.

Mr. Gniewkowski wanted clarification on if all procedures were followed in regards to the public hearing for the proposed fence regulations. Attorney Griggs clarified that all procedures were followed. Mr. Gniewkowski wanted to know from Mr. Bonnette, rather they agree or not, were procedures followed. Mr. Bonnette stated that he supposed they were. Mr. Gniewkowski stated that it is a yes or no question, was procedures followed. Mr. Bonnette stated that maybe people did not know there was a meeting. Mr. Gniewkowski wanted to know if procedures were followed. Mr. Bonnette stated that he did not know. Mr. Gniewkowski stated that he wants the record to reflect that this member (Mr. Bonnette) is not sure if procedure was followed. Chairman Blaine stated that he believes all procedures were followed. Mr. Gniewkowski stated that he believes all procedures were followed. Mr. Bonnette stated that he knows there was a meeting where three members showed up and it was not voted on because they couldn't pass them. Mr. Gniewkowski stated that is an assumption. Continued discussion was held on this issue.

Mr. Huggins stated that Mr. Bonnette has accused him of conflicts of interest. Mr. Bonnette stated that according to the zoning members code of ethics someone can not do something that is for personal benefit. Mr. Bonnette stated that when there was a meeting that Mr. Huggins had to chair that he stated it was his personal benefit. Chairman Blaine stated that they all live in this township and it is either in their benefit or not. Mr. Huggins stated that zoning member Brad Blain has an animal business and he was stating how high fences should or shouldn't be, wouldn't that be a conflict. Chairman Blaine stated that discussion should be kept to the subject of what was mentioned at the earlier public hearing. Chairman Blaine stated that he noticed some of the hands that went up that were against it felt it didn't go far enough, it needed more. One gentleman stated that an eight (8) foot fence shouldn't be allowed, he was against the proposed fence regulations but said they were too vague. The permit fees were also a concern. Brad Blain stated that Chairman Blaine's recollection of the public comments were accurate.

Attorney Griggs stated that the board has the ability to recommend approval of the proposed fence regulations or denial to the Trustees. The board also has the ability to amend the proposal and recommend the regulations with modifications, with a majority vote. Attorney Griggs stated that a decision from the zoning board needs to be made within 30 days.

Mr. Gniewkowski stated that since conflicts of interest has been discussed then maybe it should be in the minutes that zoning member Brad Blain is running for Township Trustee. Mr. Gniewkowski wanted to make sure there was full disclosure on this issue. Attorney Griggs stated that this would not be an issue.

Discussion was held on amending the proposed fence regulations in regards to adding a four (4) feet restriction to the water front area. Brad Blain stated that he feels if the fence is open then there should not be a height restriction. Attorney Griggs stated that they could also leave the proposed fence regulations as is and forward them to the Trustees and if they want to amend them, they can. Chairman Blaine stated that he got the feeling that the public that attended tonight wanted a bit more and stated that Dan Rozzo came up at the end of the public hearing and made the suggestion that eight (8) feet was too high and that it should be four (4) feet. Chairman Blaine made a motion to approve the proposed fence regulations with the following modification: To revise #2 under permitted fencing, adding fences should be no higher than four (4) feet in height along the waterway and to move it on to the Trustees, Wayne Gniewkowski seconded the motion as amended. Brad Blain stated that he does not feel the height restriction is needed. Ron Bonnette stated that he does not feel the need for the fence regulations, that it is an infringement on his rights and those of his neighbors. Chairman Blaine stated that he understood but felt they were both wrong, respectfully. After no further discussion roll call was taken and the motion passed by a vote of three (3) members in favor (Gniewkowski, Huggins Blaine) and two (2) against (Blain, Bonnette).

Zoning Member Brad Blain wanted to make sure it was noted that he would have voted in favor if the amendment had not been made because he felt it was a safety issue by adding the four (4) foot height restriction.

### **Other Items for Discussion**

Zoning Inspector Ed Corns wanted to state that in the March 11<sup>th</sup> minutes that Attorney Pete Griggs was contacted about the issue of a conflict of interest in regards to member Mark Huggins and the proposed fence regulations and it was stated that Attorney Griggs clarified it was not a conflict of interest.

There were four permits issued in the month of August as follows:

- Twp. Rd. 403 on a new build
- Sovereign on a carport
- Park Place on an accessory building
- Canoe Lane on a new build

The Inspector also wanted to inform the members that if they know of anyone who would be interested in serving on the Zoning Commission or Board of Zoning Appeals to please contact the Trustees.

After no further business, the meeting was adjourned at 7:40 pm.